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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/810,359	03/26/2004	Christina Lynn Boeckerman	9017MR	1248

EXAMINER
MYHRE, JAMES W

ART UNIT	PAPER NUMBER
3622	

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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/810,359

Applicant(s)

BOECKERMAN ET AL.

Examiner

James W. Myhre

Art Unit

3622

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 26 March 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 26 March 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☒ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date 3/6/06.
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- ☐ Notice of Informal Patent Application
- ☐ Other: _____.

DETAILED ACTION

1. This Office Action is in response to the initial filing on March 26, 2004. Claims 1-20 are currently pending and have been considered below.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claim 17 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

4. The terms "about" in claim 17 is a relative term which renders the claim indefinite. The terms "about 750ml" and "about 8L" is not defined by the claim, the specification does not provide a standard for ascertaining the requisite degree, and one of ordinary skill in the art would not be reasonably apprised of the scope of the invention.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 1-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Leray et al (US 2002/0030063) in view of Farrah et al (US 2003/0083762).

Claims 1, 3, 4: Leray discloses a container comprising two compartments containing laundry products (page 4, paragraph 0042), but does not disclose how the container is labeled or placed on a display shelf. However, Farrah discloses a process for designing labels to be placed onto product containers in which the name, logo, and other identifying information are placed on one or more sides and additional information such as ingredients, instructions for use, warning, etc. are placed on the same, adjacent, or reverse sides of the container as is standard within the industry (Figure 19 and page 1, paragraph 0003). Furthermore, Official Notice is taken that it is old and well known within the marketing industry for stores to place products onto display shelves with the product name, logo, etc. facing outward towards the customers. Therefore, it would have been obvious to one having even rudimentary skill in the art at the time the invention was made to orient the product such that the contents (i.e. the two products within the container) and identifying labels are visible to any browsing customer. One

would have been motivated to orient the display of the product and container in this manner in order to facilitate easy identification of the product by the customer.

Claim 2: Leray and Farrah discloses a method as in Claim 1 above, and Leray further discloses that the laundry composition provides at least two laundry benefits ("non-bleach-containing detergent" and "a bleaching agent") (page 4, paragraph 0042).

Claims 5 and 6: Leray and Farrah disclose a method as in Claim 1 above and Leray further discloses wherein the products are dispensed at different flow rates based on their volume and dispenser size (page 3, paragraphs 0032-0037). It would have been obvious to one having ordinary skill in the art at the time the invention was made that the compartments may be of the same or different volumes, depending on the desired mixture ratio of the dispensed product. One would have been motivated to use equal size compartments when the desired flow rate and mixture ratio were 1:1. One would have been motivated to use different size compartment when the desired flow rate and mixture ration were not 1:1.

Claim 7: Leray and Farrah disclose a method as in Claim 1 above, and Leray further discloses the container comprises a gripping means (i.e. handle) (Figure 4, item 116 and pages 3-4, paragraph 0038).

Claim 8: Leray and Farrah disclose a method as in Claim 7 above, and Leray discloses the handle is attached to the container on the top, thus visible to a front customer vantage point (Figure 1).

Claims 9-11: Leray and Farrah discloses a method as in Claim 1 above, and Leray further discloses the components are laundry products, such as heavy duty detergent, bleach, fabric care, etc. (page 4, paragraph 0042). The Examiner further notes that the type of products held within the container does not affect any of the steps of orienting the container on a shelf and, thus, is given little, if any, patentable weight.

Claim 12: Leray and Farrah disclose a method as in Claim 1 above, and Farrah further discloses arranging the product on a shelf (page 1, paragraph 0004). Furthermore, Official Notice is taken that it is old and well known within the marketing industry to place products that are for sale onto substantially horizontal surfaces, such as shelves, countertops, etc. Therefore, it would have been obvious to one having even rudimentary skill in the art at the time the invention was made to for Leray to place the containers on horizontal surfaces within the store. One would have been motivated to place the containers on a horizontal surface in order to prevent the container from sliding off a non-horizontal surface.

Claim 13: Leray and Farrah disclose a method as in Claim 1 above, and Farrah further discloses arranging the product on a shelf (page 1, paragraph 0004). While it is not explicitly disclosed that more than one container is placed on the shelf next to each other, Official Notice is taken that it is old and well known within the marketing industry to place a plurality of like products next to each other on a shelf, as is common in the grocery stores in this country. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made for Leray to place more than one container of the same product next to each other on the shelf. One would have been motivated to place more than one of the items together in order to increase the likelihood that the customer would see the product.

Claim 14: Leray and Farrah disclose a method as in Claim 1 above, and Farrah further discloses arranging the product on a shelf (page 1, paragraph 0004). While it is not explicitly disclosed that the customer will be presented an image of several of the products grouped together on a shelf via print media, photographs, web pages, etc., it would have been obvious to one having ordinary skill in the art to do so. In the art, this is called advertising.

Claim 15: Leray and Farrah disclose a method as in Claim 1 above, and Leray further discloses the container comprising a dispensing mechanism, such as a tap (page 3, paragraph 0036).

Claim 16: Leray and Farrah disclose a method as in Claim 1 above, and Farrah further discloses arranging the product on a shelf (page 1, paragraph 0004). Furthermore, Official Notice is taken that it is old and well known within the marketing industry to place products that are for sale onto substantially horizontal surfaces, such as shelves, countertops, etc. Therefore, it would have been obvious to one having even rudimentary skill in the art at the time the invention was made to for Leray to place the containers on horizontal surfaces within the store. One would have been motivated to place the containers on a horizontal surface in order to prevent the container from sliding off a non-horizontal surface. While Leray does not disclose how the container is labeled or placed on a display shelf, Farrah discloses a process for designing labels to be placed onto product containers in which the name, logo, and other identifying information are placed on one or more sides and additional information such as ingredients, instructions for use, warning, etc. are placed on the same, adjacent, or reverse sides of the container as is standard within the industry (Figure 19 and page 1, paragraph 0003). Furthermore, Official Notice is taken that it is old and well known within the marketing industry for stores to place products onto display shelves with the product name, logo, etc. facing outward towards the customers. Therefore, it would have been obvious to one having even rudimentary skill in the art at the time the invention was made to orient the product such that the contents (i.e. the two products within the container) and identifying labels are visible to any browsing customer. One would have been motivated to orient the display of the product and container in this manner in order to facilitate easy identification of the product by the customer.

Claim 17: Leray and Farrah disclose a method as in Claim 1 above. While neither reference explicitly disclose that the size of the container is between 750ml to 8L, the Examiner notes that little, if any patentable weight is given to the size or contents of the container. It would have been obvious to one having ordinary skill in the art at the time the invention was made that the container could be any desired size, depending on the intended usage. One would have been motivated to use a container between 750ml and 8L for the detergent products in Leray in view that these are the normal sizes of family-sized detergent products usually found within stores.

Claim 18: Leray and Farrah discloses a method as in Claim 1 above, and Farrah further discloses the label including warnings and information about the product (Figure 19 and page 1, paragraph 0003). Furthermore, the exact words in the message is considered to be non-functional data per se and is given no patentable weight. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made for Leray to include any desired warning or message on the container. One would have been motivated to include the message to better inform the customer about the product.

Claim 19: Leray discloses a container comprising two compartments containing laundry products (page 4, paragraph 0042), but does not disclose how the container is labeled or placed on a display shelf. However, Farrah discloses a process for designing labels to be placed onto product containers in which the name, logo, and other identifying

information are placed on one or more sides and additional information such as ingredients, instructions for use, warning, etc. are placed on the same, adjacent, or reverse sides of the container as is standard within the industry (Figure 19 and page 1, paragraph 0003). Furthermore, Official Notice is taken that it is old and well known within the marketing industry for stores to place products onto display shelves with the product name, logo, etc. facing outward towards the customers. Therefore, it would have been obvious to one having even rudimentary skill in the art at the time the invention was made to orient the product such that the contents (i.e. the two products within the container) and identifying labels are visible to any browsing customer. One would have been motivated to orient the display of the product and container in this manner in order to facilitate easy identification of the product by the customer. It would also have been obvious to one having ordinary skill in the art at the time the invention was made to place the container on a horizontal surface, such as a shelf within the store as has been discussed in the above rejections.

Claim 20: Leray discloses a container comprising two compartments containing laundry products (page 4, paragraph 0042), but does not disclose that promotional material about the product is provided to a customer. However, Official Notice is taken that it is old and well known to provide promotion information about products to potential customers....this is called advertising. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to provide promotional material to potential customers of the two-compartment container of laundry products

disclosed in Leray. One would have been motivated to advertise the product in this manner in order to entice the customer to purchase the product.

Conclusion

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

a. DeWolf et al (6,666,332) discloses a method for displaying labels and other information on a surface of a package containing products.

b. Greenberg (US 2002/0186151) discloses a method for attracting attention to a product through the use of product activation and the display of how the product is used.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to James W. Myhre whose telephone number is (571) 272-6722. The examiner can normally be reached on Monday through Thursday 6:00-3:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eric Stamber can be reached on (571) 272-6724. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only.

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JWM
January 7, 2008



James W. Myhre
Primary Patent Examiner